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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,064	02/26/2004	John Tedesco	2606.001	9173

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EXAMINER

KOVACS, ARPAD F

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/789,064

Applicant(s)

TEDESCO, JOHN

Examiner

Árpád Fábián Kovács

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 July 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/26/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In re cl. 1:

The phrase "may be" is indefinite.

In re cl. 3:

"said second end" lacks positive antecedent basis in the claims.

In re cl. 9:

"said rake assembly" lacks positive antecedent basis in the claims.

In re cl. 13:

"said tines having a base ... a tip end" is already recited in claim 8.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Bower et al (5626009).

In re cl. 1:

An elongated handle (3), centerline, proximal & distal ends (fig 1, ref 3);

A means for cultivating, a means for grooming as claimed (col. 1, ln 14-47);

In re cl. 2:

the means for cultivating: a metal blade, generally U-shaped, a first & second cutting edges (fig 1, ref 5; col. 3, ln 6);

in re cl. 3:

the blade includes: two upright portions, a bottom portion (fig 1, ref 5); a ferrule portion (at ref 4 or 10);

in re cl. 4:

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the handle includes a ferrule & at least two bosses (at ref 4; one is shown however same boss is on the other side), the upright portions of the blade including at least one aperture (see fig 1, at ref 5 upper portion);

in re cl. 5:

the ferrule includes at least one stop pin and cooperates with at least one elongated slot formed in the upright portions of the blade allowing slight pivot (col. 3, ln 6-12; the elongated slot is through at the head of bolt ref 6 or fig. 1, while the pin is shown in fig 2, bolt ref 6);

in re cl. 6:

the blade: the bottom portion is "about" flat (see fig 1 or 2);

in re cl. 7:

the blade: oriented at an obtuse angle (fig 1):

in re cl. 8, 12:

the means for grooming is a rake assembly including tines with a base end a center & a tip end diverging outwardly (see fig 2, ref 7), and a hook (see fig 1, at ref 7);

in re cl. 9:

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the rake is slidably mounted capable of being retracted or extended (as disclosed col. 3, ln 3-5);

in re cl. 10:

means for preventing the rake from rotating around (see fig 1-3);

in re cl. 11:

the means for preventing the rake from rotating includes a key & a key-slot (ref 8, lever, ref 12, sleeve, extending along the handle, prevents rotation).

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Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bower et al (5626009), in view of Rienacker et al (3258903).

Bower does not disclose every element of claim 13.

Rienacker discloses that it is known in the art to provide a rake including a sliding member & a guide to perform the function recited in the claim.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the handle of Bower with the alternative rake system of Rienacker, in order to provide a more compact cultivator (rake) (Rienacker: col. 1, In 13-34).

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Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Valentine, Lidikay et al., Pasley, Dmochowski, Gilson Sr.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 703-308-5897. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308 3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Árpád Fábián Kovács
Primary Examiner
Art Unit 3671

ÁFK